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5 *Representing the United States of America*

6
7 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 RICKY LEE KELLY,

13 Defendant.

Case No. 2:02-cr-195-JCM-PAL

FIRST STIPULATION TO CONTINUE
HEARING FOR REVOCATION OF
SUPERVISED RELEASE

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15 The United States of America, through Dayle Elieson, United States Attorney, and Daniel J.
16 Cowhig, Assistant United States Attorney, and offender RICKY LEE KELLY, by and through his
17 counsel, Kathryn Newman, Assistant Federal Public Defender, file this Stipulation to Continue the
18 Hearing for Revocation of Supervised Release currently set for Tuesday, August 28, 2018 at 10:00
19 a.m. to a date not sooner than one week for the reasons set out below. Offender KELLY is in
20 custody and agrees to the requested continuance.

21 FACTUAL AND PROCEDURAL CONTEXT

22 Offender KELLY is serving a five-year term of supervised release as a result of his
23 conviction in this case, consistent with his plea, of having violated Title 18, United States Code
24 Sections 922(g)(1) and 924(e), Felon in Possession of a Firearm. ECF 26. The Court issued an

1 order on August 10, 2018 granting a Petition for a Warrant for an Offender Under Supervision filed
2 by the United States Probation Office for the District of Nevada. ECF 37.

3 Offender KELLY appeared before the Magistrate Judge on August 14, 2018. ECF 39. The
4 Magistrate Judge ordered offender KELLY detained pending the revocation proceeding. ECF 46.

5 Offender KELLY is scheduled to appear before the Court on Tuesday August 28, 2018 at
6 10:00 a.m. in Las Vegas Courtroom 6A for a Hearing regarding Revocation of Supervised Release.
7 ECF 39.

8 The Probation Officer supervising offender KELLY will be out of the District the week of
9 August 27, 2018.

10 POINTS AND AUTHORITIES

11 Under Federal Rule of Criminal Procedure 32.1(b)(2), “unless waived by the person, the
12 Court must hold the revocation hearing within a reasonable time in the District having jurisdiction.”
13 The Advisory Committee Notes indicate that “what constitutes a reasonable time must be
14 determined on the facts of the particular case.” Fed.R.Crim.P. Advisory Committee Notes to Rule
15 32.1.

16 The United States Probation Office and the United States Attorney’s Office for the District of
17 Nevada and offender KELLY and his counsel believe the interests of justice will best be served by
18 briefly deferring the revocation hearing to a date when the probation officer supervising offender
19 KELLY will be available to provide evidence, opinion and advice to inform the Court’s decision in
20 this matter.

21 The parties have conferred and continue to discuss possible resolution of the petition.

22 Offender KELLY is detained. Offender KELLY is aware of this request and agrees to this
23 request.

24 This is the first request to continue this revocation hearing.

1 Based on the procedural posture of the petition for revocation and the agreement of the
2 parties that a continuance is in the interest of justice, the parties believe a delay of two weeks is
3 reasonable in this particular case.

4 RELIEF REQUESTED

5 For the reasons stated above, the United States and offender KELLY jointly stipulate and
6 request the Court vacate the revocation hearing in this matter currently set for Tuesday, August 28,
7 2018 at 10:00 a.m. and set the revocation hearing for a date not sooner than one week from the
8 current scheduled date.

9 Dated: August 24, 2018.

10 DAYLE ELIESON,
11 United States Attorney

12 _____//s//_____
13 KATHRYN C. NEWMAN
14 Assistant Federal Public Defender
Counsel for offender RICKY LEE KELLY

_____//s//_____
DANIEL J. COWHIG
Assistant United States Attorney

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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

-oOo-

7 UNITED STATES OF AMERICA,

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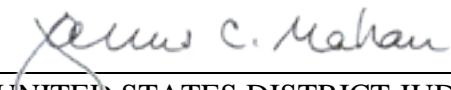
Case No. 2:02-cr-195-JCM-PAL

PROPOSED ORDER TO VACATE AND
CONTINUE HEARING FOR
REVOCATION OF SUPERVISED
RELEASE

12
13 ORDER

14 IT IS HEREBY ORDERED, based upon the stipulation between the United States and offender
15 KELLY and the record in this case and for good cause shown, that the revocation hearing currently
16 scheduled for Tuesday, August 28, 2018 at 10:00 a.m. is hereby vacated and continued to
17 **Wednesday, September 5, 2018 at 11:00 a.m., in Las Vegas Courtroom 6A.**

18 IT IS SO ORDERED August 27, 2018.

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22 UNITED STATES DISTRICT JUDGE
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//s//

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